

**ESHB 2140** - S COMM AMD TO WM COMM AMD (S-4590.1/19)

By Committee on Ways & Means

On page 6, after line 40, insert the following:

**"Sec. 4.** RCW 41.05.011 and 2018 c 260 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055 and the school employees' benefits board established under RCW 41.05.740.

(3) "Dependent care assistance program" means a benefit plan whereby employees and school employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6)(a) "Employee" for the public employees' benefits board program includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (i) Employees of a county, municipality, or other political subdivision of the state and members

1 of the legislative authority of any county, city, or town who are  
2 elected to office after February 20, 1970, if the legislative  
3 authority of the county, municipality, or other political subdivision  
4 of the state submits application materials to the authority to  
5 provide any of its insurance programs by contract with the authority,  
6 as provided in RCW 41.04.205 and 41.05.021(1)(g); (ii) employees of  
7 employee organizations representing state civil service employees, at  
8 the option of each such employee organization; (iii) through December  
9 31, 2019, employees of a school district if the authority agrees to  
10 provide any of the school districts' insurance programs by contract  
11 with the authority as provided in RCW 28A.400.350; (iv) employees of  
12 a tribal government, if the governing body of the tribal government  
13 seeks and receives the approval of the authority to provide any of  
14 its insurance programs by contract with the authority, as provided in  
15 RCW 41.05.021(1) (f) and (g); (v) employees of the Washington health  
16 benefit exchange if the governing board of the exchange established  
17 in RCW 43.71.020 seeks and receives approval of the authority to  
18 provide any of its insurance programs by contract with the authority,  
19 as provided in RCW 41.05.021(1) (g) and (n); and (vi) through  
20 December 31, 2019, employees of a charter school established under  
21 chapter 28A.710 RCW. "Employee" does not include: Adult family home  
22 providers; unpaid volunteers; patients of state hospitals; inmates;  
23 employees of the Washington state convention and trade center as  
24 provided in RCW 41.05.110; students of institutions of higher  
25 education as determined by their institution; and any others not  
26 expressly defined as employees under this chapter or by the authority  
27 under this chapter.

28 (b) Effective January 1, 2020, "school employee" for the school  
29 employees' benefits board program includes:

30 (i) All employees of school districts(~~(, educational service~~  
31 ~~districts,)~~) and charter schools established under chapter 28A.710  
32 RCW;

33 (ii) Represented employees of educational service districts; and

34 (iii) Effective January 1, 2024, all employees of educational  
35 service districts.

36 (7) "Employee group" means employees of a similar employment  
37 type, such as administrative, represented classified, nonrepresented  
38 classified excluding such employees in educational service districts  
39 until December 31, 2023, confidential, represented certificated, or  
40 nonrepresented certificated excluding such employees in educational

1 service districts until December 31, 2023, within a school employees'  
2 benefits board organization.

3 (8) (a) "Employer" for the public employees' benefits board  
4 program means the state of Washington.

5 (b) "Employer" for the school employees' benefits board program  
6 means school districts and educational service districts and charter  
7 schools established under chapter 28A.710 RCW.

8 (9) "Employer group" means those counties, municipalities,  
9 political subdivisions, the Washington health benefit exchange,  
10 tribal governments, employee organizations representing state civil  
11 service employees, and through December 31, 2019, school districts,  
12 ~~((educational service districts, and))~~ charter schools, and through  
13 December 31, 2023, educational service districts obtaining employee  
14 benefits through a contractual agreement with the authority to  
15 participate in benefit plans developed by the public employees'  
16 benefits board.

17 (10) (a) "Employing agency" for the public employees' benefits  
18 board program means a division, department, or separate agency of  
19 state government, including an institution of higher education; a  
20 county, municipality, or other political subdivision; and a tribal  
21 government covered by this chapter.

22 (b) "Employing agency" for the school employees' benefits board  
23 program means school districts, educational service districts, and  
24 charter schools.

25 (11) "Faculty" means an academic employee of an institution of  
26 higher education whose workload is not defined by work hours but  
27 whose appointment, workload, and duties directly serve the  
28 institution's academic mission, as determined under the authority of  
29 its enabling statutes, its governing body, and any applicable  
30 collective bargaining agreement.

31 (12) "Flexible benefit plan" means a benefit plan that allows  
32 employees and school employees to choose the level of health care  
33 coverage provided and the amount of employee or school employee  
34 contributions from among a range of choices offered by the authority.

35 (13) "Insuring entity" means an insurer as defined in chapter  
36 48.01 RCW, a health care service contractor as defined in chapter  
37 48.44 RCW, or a health maintenance organization as defined in chapter  
38 48.46 RCW.

39 (14) "Medical flexible spending arrangement" means a benefit plan  
40 whereby state and school employees may reduce their salary before

1 taxes to pay for medical expenses not reimbursed by insurance as  
2 provided in the salary reduction plan under this chapter pursuant to  
3 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

4 (15) "Participant" means an individual who fulfills the  
5 eligibility and enrollment requirements under the salary reduction  
6 plan.

7 (16) "Plan year" means the time period established by the  
8 authority.

9 (17) "Premium payment plan" means a benefit plan whereby public  
10 employees may pay their share of group health plan premiums with  
11 pretax dollars as provided in the salary reduction plan under this  
12 chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the  
13 internal revenue code.

14 (18) "Public employee" has the same meaning as employee and  
15 school employee.

16 (19) "Retired or disabled school employee" means:

17 (a) Persons who separated from employment with a school district  
18 or educational service district and are receiving a retirement  
19 allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

20 (b) Persons who separate from employment with a school district,  
21 educational service district, or charter school on or after October  
22 1, 1993, and immediately upon separation receive a retirement  
23 allowance under chapter 41.32, 41.35, or 41.40 RCW;

24 (c) Persons who separate from employment with a school district,  
25 educational service district, or charter school due to a total and  
26 permanent disability, and are eligible to receive a deferred  
27 retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

28 (20) "Salary" means a state or school employee's monthly salary  
29 or wages.

30 (21) "Salary reduction plan" means a benefit plan whereby public  
31 employees may agree to a reduction of salary on a pretax basis to  
32 participate in the dependent care assistance program, medical  
33 flexible spending arrangement, or premium payment plan offered  
34 pursuant to 26 U.S.C. Sec. 125 or other sections of the internal  
35 revenue code.

36 (22) "School employees' benefits board organization" means a  
37 public school district or educational service district or charter  
38 school established under chapter 28A.710 RCW that is required to  
39 participate in benefit plans provided by the school employees'  
40 benefits board.

(23) "School year" means school year as defined in RCW 28A.150.203(11).

(24) "Seasonal employee" means a state employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(25) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(26) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(27) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

**Sec. 5.** RCW 41.05.050 and 2018 c 260 s 10 are each amended to read as follows:

(1) Every: (a) Department, division, or separate agency of state government; (b) county, municipal, school district, educational service district, or other political subdivisions; and (c) tribal governments as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, other political subdivision, or a tribal government for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to

1 administer the plans for employees of those groups, except as  
2 provided in subsection (4) of this section.

3 (2) To account for increased cost of benefits for the state and  
4 for state employees, the authority may develop a rate surcharge  
5 applicable to participating counties, municipalities, other political  
6 subdivisions, and tribal governments.

7 (3) The contributions of any: (a) Department, division, or  
8 separate agency of the state government; (b) county, municipal, or  
9 other political subdivisions; (c) any tribal government as are  
10 covered by this chapter; and (d) school districts, educational  
11 service districts, and charter schools, shall be set by the  
12 authority, subject to the approval of the governor for availability  
13 of funds as specifically appropriated by the legislature for that  
14 purpose. Insurance and health care contributions for ferry employees  
15 shall be governed by RCW 47.64.270.

16 (4)(a) Until January 1, 2020, the authority shall collect from  
17 each participating school district and educational service district  
18 an amount equal to the composite rate charged to state agencies, plus  
19 an amount equal to the employee premiums by plan and family size as  
20 would be charged to employees, for groups of school district and  
21 educational service district employees enrolled in authority plans.  
22 The authority may collect these amounts in accordance with the school  
23 district or educational service district fiscal year, as described in  
24 RCW 28A.505.030.

25 (b) (i) For all groups of school district or educational service  
26 district employees enrolling in authority plans for the first time  
27 after September 1, 2003, and until January 1, 2020, the authority  
28 shall collect from each participating school district or educational  
29 service district an amount equal to the composite rate charged to  
30 state agencies, plus an amount equal to the employee premiums by plan  
31 and by family size as would be charged to employees, only if the  
32 authority determines that this method of billing the school districts  
33 and educational service districts will not result in a material  
34 difference between revenues from school districts and educational  
35 service districts and expenditures made by the authority on behalf of  
36 school districts and educational service districts and their  
37 employees. The authority may collect these amounts in accordance with  
38 the school district or educational service district fiscal year, as  
39 described in RCW 28A.505.030.

1       (ii) For all groups of educational service district employees'  
2 enrolling in plans developed by the public employees' benefits board  
3 after January 1, 2020, and until January 1, 2024, the authority shall  
4 collect from each participating educational service district an  
5 amount equal to the composite rate charged to state agencies, plus an  
6 amount equal to the employee premiums by plan and by family size as  
7 would be charged to employees, only if the authority determines that  
8 this method of billing the educational service districts will not  
9 result in a material difference between revenues from educational  
10 service districts and expenditures made by the authority on behalf of  
11 educational service districts and their employees. The authority may  
12 collect these amounts in accordance with the educational service  
13 district fiscal year, as described in RCW 28A.505.030.

14       (c) Until January 1, 2020, if the authority determines at any  
15 time that the conditions in (b) of this subsection cannot be met, the  
16 authority shall offer enrollment to additional groups of school and  
17 educational service district employees on a tiered rate structure  
18 until such time as the authority determines there would be no  
19 material difference between revenues and expenditures under a  
20 composite rate structure for all school and educational service  
21 district employees enrolled in authority plans.

22       (d)(i) Beginning January 1, 2020, all school districts,  
23 represented employees of educational service districts, and charter  
24 schools shall commence participation in the school employees'  
25 benefits board program established under RCW 41.05.740. All school  
26 districts, represented employees of educational service districts,  
27 charter schools, and all school district employee groups  
28 participating in the public employees' benefits board plans before  
29 January 1, 2020, shall thereafter participate in the school  
30 employees' benefits board program administered by the authority. All  
31 school districts, represented employees of educational service  
32 districts, and charter schools shall provide contributions to the  
33 authority for insurance and health care plans for school employees  
34 and their dependents. These contributions must be provided to the  
35 authority for all eligible school employees eligible for benefits  
36 under RCW 41.05.740(6)(d), including school employees who have waived  
37 their coverage; contributions to the authority are not required for  
38 individuals eligible for benefits under RCW 41.05.740(6)(e) who waive  
39 their coverage.

1        (ii) Beginning January 1, 2024, all educational service districts  
2        shall participate in the school employees' benefits board program.

3        (e) For the purposes of this subsection, "tiered rates" means the  
4        amounts the authority must pay to insuring entities by plan and by  
5        family size.

6        (f) Notwithstanding this subsection and RCW 41.05.065(4), the  
7        authority may allow school districts and educational service  
8        districts enrolled on a tiered rate structure prior to September 1,  
9        2002, and until January 1, 2020, to continue participation based on  
10       the same rate structure and under the same conditions and eligibility  
11       criteria.

12       (5) The authority shall transmit a recommendation for the amount  
13       of the employer contributions to the governor and the director of  
14       financial management for inclusion in the proposed budgets submitted  
15       to the legislature.

16       **Sec. 6.** RCW 28A.400.350 and 2018 c 260 s 23 are each amended to  
17       read as follows:

18       (1) The board of directors of any of the state's school districts  
19       or educational service districts may make available medical, dental,  
20       vision, liability, life, accident, disability, and salary protection  
21       or insurance, direct agreements as defined in chapter 48.150 RCW, or  
22       any one of, or a combination of the types of employee benefits  
23       enumerated in this subsection, or any other type of insurance or  
24       protection, for the members of the boards of directors, the students,  
25       and employees of the school district or educational service district,  
26       and their dependents. Except as provided in subsection (6) of this  
27       section, such coverage may be provided by contracts or agreements  
28       with private carriers, with the state health care authority, or  
29       through self-insurance or self-funding pursuant to chapter 48.62 RCW,  
30       or in any other manner authorized by law. Any direct agreement must  
31       comply with RCW 48.150.050.

32       (2)(a) Whenever funds are available for these purposes the board  
33       of directors of the school district or educational service district  
34       may contribute all or a part of the cost of such protection or  
35       insurance for the employees of their respective school districts or  
36       educational service districts and their dependents. The premiums on  
37       such liability insurance shall be borne by the school district or  
38       educational service district.



1 (b) After October 1, 1990, school districts may not contribute to  
2 any employee protection or insurance other than liability insurance  
3 unless the district's employee benefit plan conforms to RCW  
4 28A.400.275 and 28A.400.280.

5 (c) After December 31, 2019, school district contributions to any  
6 employee insurance that is purchased through the health care  
7 authority must conform to the requirements established by chapter  
8 41.05 RCW and the school employees' benefits board.

9 (3) For school board members, educational service district board  
10 members, and students, the premiums due on such protection or  
11 insurance shall be borne by the assenting school board member,  
12 educational service district board member, or student. The school  
13 district or educational service district may contribute all or part  
14 of the costs, including the premiums, of life, health, health care,  
15 accident or disability insurance which shall be offered to all  
16 students participating in interschool activities on the behalf of or  
17 as representative of their school, school district, or educational  
18 service district. The school district board of directors and the  
19 educational service district board may require any student  
20 participating in extracurricular interschool activities to, as a  
21 condition of participation, document evidence of insurance or  
22 purchase insurance that will provide adequate coverage, as determined  
23 by the school district board of directors or the educational service  
24 district board, for medical expenses incurred as a result of injury  
25 sustained while participating in the extracurricular activity. In  
26 establishing such a requirement, the district shall adopt regulations  
27 for waiving or reducing the premiums of such coverage as may be  
28 offered through the school district or educational service district  
29 to students participating in extracurricular activities, for those  
30 students whose families, by reason of their low income, would have  
31 difficulty paying the entire amount of such insurance premiums. The  
32 district board shall adopt regulations for waiving or reducing the  
33 insurance coverage requirements for low-income students in order to  
34 assure such students are not prohibited from participating in  
35 extracurricular interschool activities.

36 (4) All contracts or agreements for insurance or protection  
37 written to take advantage of the provisions of this section shall  
38 provide that the beneficiaries of such contracts may utilize on an  
39 equal participation basis the services of those practitioners

1 licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71  
2 RCW.

3 (5)(a) Until the creation of the school employees' benefits board  
4 under RCW 41.05.740, school districts offering medical, vision, and  
5 dental benefits shall:

6 (i) Offer a high deductible health plan option with a health  
7 savings account that conforms to section 223, part VII of subchapter  
8 1 of the internal revenue code of 1986. School districts shall comply  
9 with all applicable federal standards related to the establishment of  
10 health savings accounts;

11 (ii) Make progress toward employee premiums that are established  
12 to ensure that full family coverage premiums are not more than three  
13 times the premiums for employees purchasing single coverage for the  
14 same coverage plan, unless a subsequent premium differential target  
15 is defined as a result of the review and subsequent actions described  
16 in RCW 41.05.655;

17 (iii) Offer employees at least one health benefit plan that is  
18 not a high deductible health plan offered in conjunction with a  
19 health savings account in which the employee share of the premium  
20 cost for a full-time employee, regardless of whether the employee  
21 chooses employee-only coverage or coverage that includes dependents,  
22 does not exceed the share of premium cost paid by state employees  
23 during the state employee benefits year that started immediately  
24 prior to the school year.

25 (b) All contracts or agreements for employee benefits must be  
26 held to responsible contracting standards, meaning a fair, prudent,  
27 and accountable competitive procedure for procuring services that  
28 includes an open competitive process, except where an open process  
29 would compromise cost-effective purchasing, with documentation  
30 justifying the approach.

31 (c) School districts offering medical, vision, and dental  
32 benefits shall also make progress on promoting health care  
33 innovations and cost savings and significantly reduce administrative  
34 costs.

35 (d) All contracts or agreements for insurance or protection  
36 described in this section shall be in compliance with chapter 3, Laws  
37 of 2012 2nd sp. sess.

38 (6) The authority to make available basic and optional benefits  
39 to school employees under this section expires December 31, 2019,  
40 except for nonrepresented employees of educational service districts

1 for which the authority expires December 31, 2023. Beginning January  
2 1, 2020, school districts, for all school employees, and educational  
3 service districts, for represented employees, shall make available  
4 basic and optional benefits through plans offered by the health care  
5 authority and the school employees' benefits board. Beginning January  
6 1, 2024, educational service districts, for nonrepresented employees,  
7 shall make available basic and optional benefits through plans  
8 offered by the health care authority and the school employees'  
9 benefits board.

10 NEW SECTION. **Sec. 7.** (1) The Washington state health care  
11 authority, in consultation with the office of the superintendent of  
12 public instruction, educational service districts, and the office of  
13 financial management, shall study employee health benefits in  
14 educational service districts and the impact of participation in the  
15 school employees' benefits board program on educational service  
16 districts and their employees. The study must include an analysis of:

17 (a) Health benefit plans provided to educational service district  
18 employees and their costs;

19 (b) Estimated costs to educational service districts to  
20 participate in the school employees' benefits board program;

21 (c) Comparisons of costs, benefits offered, and employees  
22 covered, between educational service district health benefits and  
23 school employees' benefits board health benefits if adopted; and

24 (d) Revenue from school districts, state, federal, and other  
25 sources that support educational service district services and their  
26 ability to support rates negotiated for the school employees'  
27 benefits board program.

28 (2) By December 31, 2020, and in compliance with RCW 43.01.036,  
29 the Washington state health care authority must report findings from  
30 the study to the fiscal committees of the legislature."

31 Renumber the remaining section consecutively and correct any  
32 internal references accordingly.

**ESHB 2140** - S COMM AMD TO WM COMM AMD (S-4590.1/19)  
By Committee on Ways & Means

1        On page 7, line 8, after "28A.300.780," strike "and 28A.320.330;"  
2    and insert "28A.320.330, 41.05.011, 41.05.050, and 28A.400.350;  
3    creating a new section;"

EFFECT: Delays the enrollment of Educational Service District (ESD) employees that are not covered by a collective bargaining agreement in School Employees' Benefits (SEB) until January 1, 2024. Allows ESDs to enroll nonrepresented employees in Public Employees' Benefits until December 31, 2023. Requires the Health Care Authority, in consultation with OSPI, ESDs, and the Office of Financial Management, to study the impacts of ESD enrollment in SEB and to report to the Legislature.

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